



**BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION
THE CALIFORNIA ENERGY COMMISSION**

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Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive Framework and to
Examine the Integration of Greenhouse Gas Emissions
Standards into Procurement Policies

Rulemaking 06-04-009
(Filed April 13, 2006)

CEC No. 07-OIIP-01

**COMMENTS OF POWEREX CORP.
ON
TYPE AND POINT OF REGULATION ISSUES**

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In accordance with the "Administrative Law Judges' Ruling Requesting
Comments on Type and Point of Regulation Issues" dated November 9, 2007, Powerex Corp.
("Powerex") hereby submits its comments.¹

Powerex is the marketing subsidiary of British Columbia Hydro and Power
Authority ("BC Hydro"). Powerex sells power at wholesale in the United States pursuant to
market-based rate authority granted by the Federal Energy Regulatory Commission, including
supply from competitively-priced qualifying renewable (small hydro, biomass and landfill gas)
generation facilities.

I. INTRODUCTION

Powerex supports the first-seller approach to regulation of GHG emissions for a
number of reasons. Perhaps most significantly, such an approach is suitable as a model for a
national or regional program and, if adopted by California, can be easily integrated with broader
regional or national programs. A first-seller approach can be readily scaled to include additional
jurisdictions. For example, in conjunction with implementation of the Western Climate Initiative

¹ By e-mail dated November 19, 2007, the presiding ALJ extended the due date for the filing of initial
comments from November 28, 2007 to December 3, 2007.

(WCI), a first-seller approach would reduce the risks of contract shuffling and would be more likely to place emitters in the appropriate dispatch order. It would have the further benefit of ensuring that imports to California (from outside California or even from outside the WCI) are afforded the same opportunity and equal treatment as that available to emitters within California (or the WCI).

A cap and trade system of regulation under which the first seller is the point of regulation offers scalability; broadens the market for GHG compliance units/allowances; and incorporates GHG compliance costs within electricity costs, thereby providing the correct price signal to the market to place generation in the appropriate dispatch order. Powerex therefore supports such a system of GHG regulation for the electricity sector as a fair and logical basis for meeting the mandates of AB 32.

II. COMMENTS

Powerex's comments follow the outline of pertinent issues and questions as set forth in the ALJ Ruling dated November 9, 2007. While the subject comments only respond to a limited subset of the questions asked in the ALJ Ruling, Powerex remains interested in the full range of issues identified in the ALJ Ruling and reserves its right to reply to matters that are not necessarily addressed in these comments.

3.1. General:

- Q1. What do you view as the incremental benefits of a market-based system for GHG compliance, in the current California context?

A properly designed market-based system for GHG compliance in the electrical sector can, if designed properly, accomplish a number of desirable goals, including (i) reliance on market-based efficiencies to lower the cost of compliance; (ii) establishment of appropriate price signals for lower and zero emission resources; and (iii) placement of higher emitting

resources appropriately within California's preferred dispatch order by reflecting the cost of electricity and carbon pricing together, rather than the cost of electricity alone, in the dispatch order.

- Q2. Can a market-based system provide additional emissions reductions beyond existing policies and/or programs?

Assuming a cap and trade system, it is the cap that sets the limit of emissions.

The efficiencies/costs associated with compliance, from one emitter to another, would set the relative price level of compliance with the cap. A market-based system rewards efficiencies through a market for allowances; the existence of such a marketplace does not in and of itself reduce emissions below the cap. Rather, it allows those that do reduce below the cap to sell their "excess" allowances in a marketplace, thus ensuring efficient compliance with the cap by those emitters that otherwise could not reduce their emissions at a cost below the market clearing price of allowances.

3.2. Principles or Objectives to be Considered in Evaluating Design Options

- Goal attainment: Does the approach being considered have any particular advantages in terms of meeting overall emission reduction goals?

Yes, a load-based cap and trade system, for example, may not immediately reduce emissions outside of California as other regions may simply continue to buy the GHG-intensive energy that California spurned (the concept of contract shuffling). Furthermore, a load-based system does not send the correct price signal to the marketplace to place generation in the appropriate dispatch order when electricity and GHG compliance costs are considered together. A first-seller approach would place ghg-intensive generation higher in the dispatch order thus eventually favoring the dispatch of lower emission generators.

- Cost minimization: Is the approach likely to minimize the total cost to end users of achieving a given GHG reduction target?

Absolutely. A cap and trade model, especially in a regional context, would broaden the market for GHG compliance units/allowances and promote a lower cost of compliance than would a model focused primarily on emissions from California-based load alone.

- Environmental Integrity: Does the approach mitigate or allow contract shuffling and the leakage of emissions occurring outside of California as a result of efforts to reduce emissions in California?

Both first-seller and a load-based models have similar environmental integrity problems in the “California only” context. In a broader regional context, under the first-seller model, the majority of generators will have emissions directly attributed and will make optimal economic decisions that support real reductions. By contrast, under a model that relies heavily on broad regional factors (i.e. load-based models and a “California only” first-seller approach), there is a much higher risk of leakage and contract shuffling.

- Expandability: Would the approach integrate easily into a broader regional or national program? A related consideration is the suitability of the approach as a model for a national or regional program.

Yes, a first-seller approach is easily scaled to include additional jurisdictions. For example, under implementation of the WCI, a first-seller approach dramatically reduces the risk of contract shuffling and places emitters in the appropriate dispatch order. It has the added benefit of ensuring that imports to California from outside California, or the WCI for that matter, are treated equally to those emitters within California (or the WCI).

- Accuracy: Does the approach support accuracy in reporting and, therefore, ensure that reported emission reductions are real?

Load-based cap and trade is substantially weaker than first seller in terms of an approach that supports accuracy in reporting, particularly in the broader context of the WCI. Under a load-based model, imports are assessed a broadly estimated regional intensity factor. These broad regional factors decrease accuracy and decrease the likelihood of real reductions. Under the first-seller approach, generators are monitored at source and will factor actual emissions directly into their dispatch decisions while imports would be given broadly estimated regional intensity factors. Viewed in isolation, a first-seller model for California still has a large role for estimated regional intensity factors, albeit in the context of a broader regional initiative; the portion of imports to the region in which regional intensity factors are needed will drop dramatically.

3.3. Load-Based Cap-and-Trade System Design

- Q6. Which of these systems best accounts for all imports? What are the advantages and disadvantages of each potential tracking system in terms of accuracy, cost of development and administration of tracking systems, costs of administration to the parties, and overall costs to ratepayers? Are there alternative tracking approaches that you would recommend, and for what reasons?

Powerex is not supportive of any of the forms of a load-based system, all of which suffer the disadvantages and inefficiencies necessarily associated with the tracking mechanisms that would be required under a load-based system.

3.4. Source-based Cap-and-trade System Design Options

3.4.1. Pure Source-based (GHG Regulation of In-state Generation Only)

Under an in-state-only source-based approach, the regulated entities would be the power plants located in California that generate electricity and emit GHGs. Under such a system, electricity use associated with imports would not be directly regulated under the cap-and-trade system. Instead, other policies and programs such as energy efficiency and the Renewable Portfolio Standard (RPS) would be utilized to decrease reliance on imported GHG-intensive power sources.

- Q15. Please comment on the “First Seller Design Description” paper, which is Attachment A to this ruling. Does the paper accurately describe the deliverer/first seller program? If not, describe your concerns and include an accurate description from your perspective.

Yes, the paper accurately describes the deliver/first seller program. However much of the complexity in tracking and management of the first seller model as suggested in the paper would drop dramatically within the context of the WCI.

- Q19. If retail providers are responsible for internalizing the cost of carbon for imported power, all power generated in-state may need to be tracked to load to avoid double regulation of in-state power. Do you agree?

Yes

3.5. Deferral of a Market-based Cap-and-Trade System

- Q21. How important is it that a cap-and-trade system be included in the near-term as part of the electricity sector’s AB 32 compliance strategy?

The “cap” in cap and trade sets the level of reduction and the market then sets the cost of compliance. If one assumes emitting generators will seek the lowest cost of compliance, then market forces ought to wring out efficiencies of compliance. A cap alone unfairly assumes all emitters have the same cost of compliance, penalizes those that have a higher cost of compliance, and does not reward those that may be able to reduce emissions greater than what is required by compliance through being rewarded by the market for such action. All of the alternatives that would defer implementation of a market-based system would have the effect of reducing emissions but would not unleash market efficiencies for complying with such mechanism. The relative negative impacts of not allowing markets to assist in the implementation of AB32 would almost certainly increase the cost of compliance.

- Q23. Address how deferral of a cap-and-trade program for the electricity sector would facilitate or hinder California's integration into a subsequent regional or federal program.

Powerex does not offer an opinion on how emission reduction obligations could work in the absence of cap and trade or how increased programmatic goals would increase rates. Powerex's view is that a market-based system with as broad (i.e. WCI) a geographic area as possible will likely produce the lowest cost of compliance under a first-seller cap and trade model. Powerex supports any efforts California might take to work within the WCI to solve many of the Greenhouse Gas tracking problems that may appear substantial when viewed in isolation.

- Q29. Address and compare how each of the alternatives identified in the above questions, and the proposal you submit in response to the preceding question, would perform relative to each of the principles or objectives listed above and any other principles or objectives you propose.

As discussed throughout Powerex's comments in this filing, Powerex strongly supports a first-seller cap and trade model to encourage market efficiencies of compliance, to allow for scalability for a regional or national GHG compliance model, to eliminate the risk of contract shuffling, and to ensure proper dispatch order for generators.

III. CONCLUSION

Powerex recommends that a market-based system with first sellers as the point of regulation serve as the basis of the joint Commission-CEC recommendation to the California Air Resources Boards regarding the type and point of regulation of GHG emissions that should be adopted by California with respect to the electricity sector.

Respectfully submitted this 3rd day of December, 2007 at San Francisco,
California.

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CERTIFICATE OF SERVICE

I, Lisa Vieland, certify that I have on this 3rd day of December 2007 caused a copy of the foregoing

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to be served on all known parties to R.06-04-009 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 3rd day of December 2007 at San Francisco, California.

/s/ Lisa Vieland
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